



State of Washington  
**PUBLIC DISCLOSURE COMMISSION**

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9:00 a.m.

December 10, 2003

**MINUTES – SPECIAL MEETING**

Evergreen Plaza Bldg. Room 206  
711 Capitol Way South  
Olympia, Washington

**COMMISSION MEMBERS PRESENT**

Susan Brady, Chair  
Earl Tilly, Secretary  
Francis Martin, Member  
Michael Connelly, Member

**STAFF PRESENT**

Vicki Rippie, Executive Director  
Susan Harris, Assistant Director  
Nancy Krier, Senior Counsel  
Linda Dalton, Sr. Asst. Attorney General  
Karen Copeland, Dir. Records & Admin.

The special meeting of the Public Disclosure Commission was called to order by Commission Chair Susan Brady at 9:00 a.m. in the Evergreen Plaza Building, Room 206, Olympia, Washington.

**Commissioner Comments**

Commissioner Connelly commented that he received favorable responses from citizens regarding PDC's operation throughout the previous election cycle, and he expressed his appreciation to staff. Commissioner Brady noted that the Annual Report was very well done.

**Citizen Comments/Concerns**

No citizen comments or concerns were expressed.

**Minutes**

**Motion 04-041**

Moved by Commissioner Connelly, seconded by Commissioner Martin:

**The Commission adopts the minutes of October 28 and November 6, 2003, as written.**

The motion passed unanimously.

Legislation

Vicki Rippie summarized legislation being introduced by Representative Jim Moeller relating to mandatory electronic filing for lobbyists and lobbyist employers.

**Motion 04-042**

Moved by Commissioner Connelly, seconded by Commissioner Martin:

**The Commission supports the proposed legislation since it is consistent with the agency's mission statement as long as adequate funding is provided.**

The motion passed unanimously.

Ms. Rippie briefly summarized other pending legislation that may impact chapter 42.17 RCW.

Rule Making  
Public Hearing

Mr. Ellis reported on several proposed rule amendments, one proposed new rule and one proposed repeal. He noted minor changes between the proposed rules and the rules published by the Code Reviser.

*WAC 390-16-050 Forms for contributions and expenditure of out-of-state or federal political committees*

Amendments incorporate legislative changes of House Bill 1294, which became effective on July 27, 2003.

*WAC 390-19-030 Electronic filing – Reporting threshold*

The amendment reflects the new threshold level of \$10,000 in expenditures beginning January 1, 2004. It also establishes an additional benchmark for determining when a filer can reasonably "expect to expend" an amount equal to or more than the \$10,000. Mr. Ellis noted a minor

amendment to subsection (2)(b) to add the word “last” before “sought.”

*WAC 390-16-037 Purpose of  
campaign expenditures –  
Reporting*

The amendment clarifies the existing rule by requiring detailed information and provides three examples of how the “purpose” of an expenditure should be reported.

*WAC 390-16-205 Expenditures by  
agents, employees – Reporting*

The amendment references WAC 390-16-037 and provides examples of how to itemize expenditures by agents and employees.

Mr. Ellis noted that this rule was controversial at the December 2<sup>nd</sup> stakeholder meeting. Concern was expressed over the detailed disclosure of consultant charges because this level of detail would be a burden and may create a competitive disadvantage. Staff believes the detail is necessary to comply with statutory provisions.

*WAC 390-16-041 Forms – Summary  
of total contributions and  
expenditures*

The amendment clarifies the requirement to provide a detailed explanation of expenses on Schedules A and B to the C-4 Report. The rule also adds a note to remind filers of the obligation to provide detailed information in the description block of both schedules.

*WAC 390-17-105 Small contributors  
of \$25 or less*

This new rule implements the requirements of a permanent injunction issued on February 12, 2003, enjoining the Commission from taking action to enforce RCW 42.17.680(4) in such a way as to require employers to disclose the names or signatures of individuals who have made contributions in the amount of twenty-five dollars or less during the year.

*WAC 390-16-055 Forfeiture of  
contributions received from  
out-of-state or federal political  
committees*

Repeal of this rule is necessary since House Bill 1294 eliminated the forfeiture provision of RCW 42.17.090. The rule no longer conforms with state law.

Mr. Ellis noted that, if approved, the rules would become effective 31 days after filing the CR 103 with the Code Reviser.

No one signed up to testify on the rules.

**Motion 04-043**

Moved by Commissioner Connelly, seconded by Commissioner Tilly:

**The Commission amends WAC 390-16-050 Forms for contributions and expenditures of out-of-state or federal political committees, WAC 390-19-037 Purpose of campaign expenditures – Reporting, WAC 390-16-205 Expenditures by agents, employees – Reporting and WAC 390-16-041 Forms—Summary of total contributions and expenditures, as presented.**

**The Commission adopts WAC 390-19-030 Electronic filing – Reporting threshold, as amended.**

**The Commission adopts WAC 390-17-105 Small contributors of \$25 or less, as presented.**

**The Commission repeals WAC 390-16-055 Forfeiture of contributions received from out of state or federal political committees.**

The motion passed unanimously.

Conceptual Discussion of potential rule making

Mr. Ellis briefly discussed potential rule making topics:

- Clarification of WAC 390-16-238 Personal use of contributions.
- Political advertising – clarification of sponsor identification requirements.
- In-kind contributions – clarification of RCW 42.17.105(8) regarding in-kind contributions and the value of poll results.

- WAC 390-12-010 Public Disclosure Commission – Regular meetings
- WAC 390-17-030 Sample ballots and slate cards

The Commission authorizes staff to move forward with the rule making process.

#### Enforcement Matters

##### Hearings

*International Brotherhood of  
Electrical Workers Local Union  
46, Case #04-273*

Phil Stutzman summarized the case against the International Brotherhood of Electrical Workers for alleged violation of RCW 42.17.180 by failing to timely file monthly contribution reports during 2001, 2002 and 2003, and by failing to include contributions on annual lobbyist employer's report during 2001 and 2002; and RCW 42.17.175 by failing to file special reports of contributions made within 21 days of the 2001 general election.

Mr. Stutzman read the Stipulation of Facts and Violations into the record.

James Oswald, attorney, introduced Local 46 Business Manager Gary Price and briefly summarized the history prior to Mr. Price accepting his position with the union. He also noted that the union approached Commission staff in an effort to bring all reports up to date and requested that the Commission take this into consideration when imposing a penalty.

#### **Motion 04-044**

Moved by Commissioner Martin, seconded by Commissioner Connelly:

**The Commission accepts the  
Stipulation of Facts and Violations in  
PDC Case #04-273, International  
Brotherhood of Electrical Workers  
Local Union No. 46.**

The motion passed unanimously.

#### **Motion 04-045**

Moved by Commissioner Martin, seconded by Commissioner Connelly:

**In PDC Case #04-273, International Brotherhood of Electrical Workers Local Union No. 46, the Commission assesses a penalty of \$2,500 with \$2,000 suspended based on no future violations for five years.**

The motion passed unanimously.

*Edmund T. Orcutt 2002 Campaign Committee, Case #04-312*

Mr. Stutzman summarized the case against the Edmund T. Orcutt 2002 Campaign Committee for alleged violation of RCW 42.17.060, .080 and .090 by failing to deposit contributions within five business days and by failing to timely and accurately report all contributions and expenditures; RCW 42.17.105 by failing to file special reports of contributions received within 21 days of the 2002 general election.

Mr. Stutzman then read the Stipulation of Facts, Violations and Penalty into the record.

Representative Orcutt was present and stated that he realizes mistakes were made. He noted that the contributions exceeded expectations resulting in the volunteer treasurer being completely overwhelmed towards the end of the campaign. All of the corrections have been made and he apologized for the errors and the time it has taken staff and the Commission to process this complaint.

**Motion 04-046**

Moved by Commissioner Connelly, seconded by Commissioner Tilly:

**In PDC Case #04-312, Edmund T. Orcutt 2002 Campaign Committee, the Commission accepts the Stipulation of Facts, Violations and Penalty of \$3,500 with \$1,000 suspended provided no Edmund T. Orcutt campaign for state or local elective office in 2004 through 2006 is**

**found in violation of any section of  
RCW 42.17 by the full Commission.**

The motion passed unanimously.

*Al Kiefer, Case #04-130*

Mr. Stutzman summarized the case against Al Kiefer for an alleged violation of RCW 42.17.240 by failing to timely file the Statement of Financial Affairs (PDC for F-1) within two weeks of becoming a candidate in the 2003 election. Mr. Kiefer has had two prior brief enforcement hearings and the outstanding penalties remain unpaid. The F1 has not been filed.

Mr. Kiefer was present via telephone and stated that he has never received notices and was unaware of outstanding penalties imposed against him. Mr. Kiefer also provided a corrected address for correspondence.

**Motion 04-047**

Moved by Commissioner Connelly, seconded by Commissioner Martin:

**In PDC Case #04-130, Al Kiefer, the  
Commission finds a violation of RCW  
42.17.240 and assesses a penalty of  
\$1,000 with \$500 suspended if all  
reports are filed and outstanding  
penalties are paid within 30 days of  
the date of the order.**

The motion passed unanimously.

*W.F. Stevlingson, Case #04-275*

Mr. Stutzman noted that Mr. Stevlingson has been removed for the agenda.

*James Stiebritz, Case #04-019*

Mr. Stutzman summarized the case against James Stiebritz for alleged violation of RCW 42.17.240 by failing to timely file the Statement of Financial Affairs by April 15, 2003, and by failing to timely file the Statement of Financial Affairs within two weeks of becoming a candidate in the 2003 election. Mr. Stiebritz has had two prior stipulations and one prior brief enforcement

hearing. All outstanding penalties have been paid and the F1 has been filed.

Mr. Stiebritz was present via telephone and stated that his accountant files the form on his behalf at the same time his taxes are filed.

**Motion 04-048**

Moved by Commissioner Connelly, seconded by Commissioner Tilly:

**In PDC Case #04-019, James Stiebritz, the Commission finds a violation of RCW 42.17.240 and assesses a penalty of \$600.**

The motion passed unanimously.

*Balisa Weber, Case #03-462*

Mr. Stutzman summarized the case against Balisa Weber for alleged violation of RCW 42.17.240 by failing to timely file the Statement of Financial Affairs by April 15, 2003, and by failing to timely file the Statement of Financial Affairs within two weeks of becoming a candidate in the 2003 election. Ms. Weber has had one prior stipulation and two prior brief enforcement hearings. All outstanding penalties have been paid. The F1 has not been filed.

**Motion 04-049**

Moved by Commissioner Connelly, seconded by Commissioner Tilly:

**In PDC Case #03-462, Balisa Weber, the Commission finds a violation of RCW 42.17.240 and assesses a penalty of \$600.**

The motion passed unanimously.

Executive Session

The Commission went into executive session at 11:25 a.m. to discuss pending and potential litigation with legal counsel.

Public Session

The Commission returned to public session at 11:35 a.m. and recessed for lunch.



The Commission reconvened at 1:30 p.m.

Election of Officers

**Motion 04-050**

Moved by Commissioner Connelly, seconded by Commissioner Martin:

**The Commission elects Earl Tilly as Chair of the Public Disclosure Commission effective January 1, 2004.**

The motion passed unanimously.

**Motion 04-051**

Moved by Commissioner Tilly, seconded by Commissioner Brady:

**The Commission elects Francis Martin as Secretary/Treasurer of the Public Disclosure Commission effective January 1, 2004.**

The motion passed unanimously.

Vicki Rippie thanked Commissioner Brady for her service, her efforts and for always protecting and respecting the public's right to know.

Commissioner Brady commented that her time on the Commission has been very enjoyable and she commended staff for their dedication.

Staff Reports

Executive Director

Ms. Rippie briefly reported on the progress of achieving goals set out in the agency's strategic plan highlighting some of the accomplishments in the compliance and IT areas.

Assistant Director

Susan Harris reported that the annual mailing to all elected and appointed officials required to complete an annual Statement of Financial Affairs will primarily take place via email this year saving both printing and postage costs.

Assistant Attorney General

Nancy Krier briefly updated the status of current cases and pending litigation.

Susan Brady thanked Senior Counsel Nancy Krier and Senior Assistant Attorney General Linda Dalton for their first-rate assistance and support.

Electronic Filing Exemption Request

*Jessica Greenway, candidate for  
Kirkland City Council*

Susan Harris reported that Barbara Jones, treasurer for Jessica Greenway, requests an exemption from electronic filing because the campaign was under the \$25,000 threshold until just prior to the election when the campaign reached \$25,500, including debts. Ms. Jones also noted that she is unable to make the technology conversion because she uses a Macintosh computer and the software is not compatible.

Staff recommends allowing the treasurer to not file electronically since the campaign did not meet any of the benchmark dates and did not exceed the threshold until after the 7-day pre general report.

Vicki Rippie noted that the staff believes electronic filing was mandated to assist voters in having prompt information before the election. As an enforcement policy, if the spending thresholds in the statute and the rule are not satisfied until after the last pre-election report is filed, no enforcement will proceed with respect to electronic filing for that campaign, but electronic filing is required for subsequent campaigns for the same office.

**Motion 04-052**

Moved by Commissioner Connelly, seconded by Commissioner Tilly:

**The Commission denies the  
electronic filing exemption request  
for Jessica Greenway.**

**The Commission supports staff's  
recommendation regarding  
enforcement of the electronic filing  
requirement as presented.**

The motion passed unanimously.

Reporting Modifications

New

*Nancy Whitten, candidate for City  
Council, City of Sammamish*

Phil Stutzman reported that Ms. Whitten requests an exemption from reporting the business and governmental customers of the Washington State Medical Association, of which her spouse is a trustee.

**Motion 04-053**

Moved by Commissioner Connelly, seconded by Commissioner Martin:

**The Commission grants Nancy Whitten the reporting modification as requested.**

**The Commission finds that literal application would cause a manifestly unreasonable hardship on the applicant and that a limited modification would not frustrate the purposes of the act.**

The motion passed unanimously.

*Darlene Hartley, candidate,  
Director, Stanwood-Camano  
Island School District*

Phil Stutzman reported that Ms. Hartley requests an exemption from reporting the business customers of Seattle Pacific University where she serves as a trustee.

**Motion 04-054**

Moved by Commissioner Connelly, seconded by Commissioner Martin:

**The Commission grants Darlene Hartley the reporting modification as requested.**

**The Commission finds that literal application would cause a manifestly unreasonable hardship on the applicant and that a limited modification would not frustrate the purposes of the act.**

The motion passed unanimously.

*Richard Crocker, candidate, City  
Council, City of Wenatchee*

Phil Stutzman reported that Mr. Crocker requests an exemption from reporting information regarding income, creditors, real estate and investments held by his wife, from whom he has lived separately for the past twelve years.

**Motion 04-055**

Moved by Commissioner Connelly, seconded by Commissioner Tilly:

**The Commission grants Richard Crocker the reporting modification as requested.**

**The Commission finds that literal application would cause a manifestly unreasonable hardship on the applicant and that a limited modification would not frustrate the purposes of the act.**

The motion passed unanimously.

*Claire Grace, Member, Washington  
State Housing Finance Comm.*

Phil Stutzman reported that Ms. Grace requests an exemption from reporting the business and other governmental customers of Weyerhaeuser Company, Weyerhaeuser Real Estate Company and the related entities and subsidiaries of those companies, of which she is a corporate officer.

Commissioner Connelly expressed concern that there may be a direct connection between the Housing Finance Commission and Weyerhaeuser Company. He requested that staff gather more information and bring the request back to the Commission next month.

*Dan O'Neal, Member, Washington  
State Transportation Comm.*

Phil Stutzman reported that Mr. O'Neal requests an exemption from reporting the business and governmental customers, that have no significant connection Washington State, of Gunderson, Inc., a company of which he is a corporate officer. Mr. Stutzman noted that Mr. O'Neal has reported

customers that have a connection to Washington State.

**Motion 04-056**

Moved by Commissioner Tilly, seconded by Commissioner Martin:

**The Commission grants Dan O'Neal the reporting modification as requested.**

**The Commission finds that literal application would cause a manifestly unreasonable hardship on the applicant and that a limited modification would not frustrate the purposes of the act.**

The motion passed unanimously.

Renewal (no change)  
*Kirk Michels, Director, Grandview  
School District #105*

Phil Stutzman reported that Mr. Michels requests a renewal of an exemption from reporting the business customers of Proebstel Michels CPA, an accounting firm of which he is 50% owner. He noted that this requests covers 2002 activities.

**Motion 04-057**

Moved by Commissioner Connelly, seconded by Commissioner Tilly:

**The Commission grants Kirk Michels the reporting modification as proposed.**

**The Commission finds that literal application would cause a manifestly unreasonable hardship on the applicant and that a limited modification would not frustrate the purposes of the act.**

The motion passed unanimously.

Enforcement Matters (cont.)

Request for Review

*Ben Medina, Case #03-234*

Mr. Stutzman noted that Mr. Medina requests that his case be continued for another month so that he can attend the hearing.

**Motion 04-058**

Moved by Commissioner Connelly, seconded by Commissioner Martin:

**The Commission continues PDC Case #03-234, Ben Medina, until the next regular scheduled meeting.**

The motion passed unanimously.

Requests for Reconsideration

*Janice Latch, Case 03-349*

Mr. Stutzman reported that a brief enforcement hearing was held on June 12, 2003, in which Ms. Latch was found in violation of RCW 42.17.240 for failure to timely file the Statement of Financial Affairs. Ms. Latch was assessed a penalty of \$500. Mr. Stutzman noted that her term ended in 2001 and Ms. Latch was a member in name only during 2002 and ultimately resigned.

Ms. Latch was present and stated that she remained on the school board by default because no one ran for the position and she did not attend any meetings during 2002.

**Motion 04-059**

Moved by Commissioner Connelly, seconded by Tilly:

**The Commission vacates the order in PDC Case #03-349, Janice Latch.**

The motion passed unanimously.

*Trisha Bradley, Case #04-042*

Mr. Stutzman reported that a brief enforcement hearing was held September 10, 2003, in which Ms. Bradley was found in violation of RCW 42.17.240 for failure to timely file a Statement of Financial Affairs and RCW 42.17.050 for failure to timely file a Candidate Registration. Ms. Bradley

was assessed a penalty of \$300 and both forms have been filed.

Ms. Bradley submitted a letter stating that she filed as a candidate through the mail, lost the Primary and did not believe there were any additional forms required since she would not be serving in a public position.

There was no motion to reconsider this matter.

*John Campbell, Case #04-049*

Mr. Stutzman reported that a brief enforcement hearing was held September 10, 2003, in which Mr. Campbell was found in violation of RCW 42.17.240 for failure to timely file a Statement of Financial Affairs and RCW 42.17.050 for failure to timely file a Candidate Registration. Mr. Campbell was assessed a penalty of \$300.

Mr. Campbell submitted a letter stating that he attempted to withdraw as a candidate, however it was too late to have his name removed from the ballot.

There was no motion to reconsider this matter.

*Ellen Clifton, Case #04-058*

Mr. Stutzman reported that a brief enforcement hearing was held September 10, 2003, in which Ms. Clifton was found in violation of RCW 42.17.240 for failure to timely file a Statement of Financial Affairs. Ms. Clifton was assessed a penalty of \$150.

Ms. Clifton was present via telephone and provided a letter which stated that she withdrew her candidacy within one week of filing.

**Motion 04-060**

Moved by Commissioner Connelly, seconded by Tilly:

**The Commission vacates the order in PDC Case #04-058, Ellen Clifton.**

The motion passed unanimously.

*James Fatton, Case #04-078*

Mr. Stutzman reported that a brief enforcement hearing was held September 10, 2003, in which Mr. Fatton was found in violation of RCW 42.17.240 for failure to timely file a Statement of Financial Affairs and RCW 42.17.050 for failure to timely file a Candidate Registration. Mr. Fatton was assessed a penalty of \$300 and the forms have been filed.

Mr. Fatton provided a letter stating that he did file the F1 form but did not know that the Candidate Registration form was necessary.

There was no motion to reconsider this matter.

*James Hill, Case #03-318*

Mr. Stutzman reported that a brief enforcement hearing was held June 12, 2003, in which Mr. Hill was found in violation of RCW 42.17.240 for failure to timely file a Statement of Financial Affairs. Mr. Hill was assessed a penalty of \$125.

Mr. Hill provided a letter stating that he mailed the form before the April 15<sup>th</sup> deadline and does not know why it was not received by the PDC.

There was no motion to reconsider this matter.

*Steve Hotchkiss, Case #04-114*

Mr. Stutzman reported that a brief enforcement hearing was held September 10, 2003, in which Mr. Hotchkiss was found in violation of RCW 42.17.240 for failure to timely file a Statement of Financial Affairs. Mr. Hotchkiss was assessed a penalty of \$150 and the form was filed October 6<sup>th</sup>.

Mr. Hotchkiss was present via telephone and stated that he assumed that the F1 form was for reporting campaign donations and monies spent during the campaign and since he spent no money, he didn't think he needed to file.

There was no motion to reconsider this matter.

*Kraig Howard, Case #03-325*

Mr. Stutzman reported that a brief enforcement hearing was held June 12, 2003, in which Mr. Howard was found in violation of RCW 42.17.240



for failure to timely file a Statement of Financial Affairs. Mr. Howard was assessed a penalty of \$500.

Mr. Howard provided a letter stating he was going through a divorce and did not receive his mail.

There was no motion to reconsider this matter.

*Joe Mitschelen, Case #03-380*

Mr. Stutzman reported that a brief enforcement hearing was held June 12, 2003, in which Mr. Mitschelen was found in violation of RCW 42.17.240 for failure to timely file a Statement of Financial Affairs. Mr. Mitschelen was assessed a penalty of \$100 and the form was filed on May 29, 2003.

Mr. Mitschelen requested a telephone conference but was not available at either telephone number provided. A letter was previously submitted which stated that he did not have a sufficient amount of time to respond to the warning letter.

There was no motion to reconsider this matter.

*Jesse Moss Case #04-161*

Mr. Stutzman reported that a brief enforcement hearing was held September 10, 2003, in which Mr. Moss was found in violation of RCW 42.17.240 for failure to timely file a Statement of Financial Affairs. Mr. Moss was assessed a penalty of \$150. Mr. Stutzman noted that Mr. Moss filed electronically on September 8<sup>th</sup>, however a signature card was not received.

Mr. Moss provided a letter that stated that he was out of state for 6 weeks and electronically filed his F1 prior to the brief enforcement hearing.

**Motion 04-061**

Moved by Commissioner Martin, seconded by Commissioner Tilly:

**The Commission upholds the violation in PDC Case #04-161, Jesse Moss, and reduces the penalty to \$100.**

The motion passed unanimously.

*Kelly O'Brien, Case #04-167*

Mr. Stutzman reported that a brief enforcement hearing was held September 10, 2003, in which Mr. O'Brien was found in violation of RCW 42.17.050 for failure to timely file a Candidate Registration. Mr. O'Brien was assessed a penalty of \$150.

Mr. O'Brien provided a letter that stated that the elections department at the county courthouse informed him that he did not need to file.

There was no motion to reconsider this matter.

*Craig Roesler, Case #04-189*

Mr. Stutzman reported that a brief enforcement hearing was held September 10, 2003, in which Mr. Roesler was found in violation of RCW 42.17.050 for failure to timely file a Candidate Registration. Mr. Roesler was assessed a penalty of \$200 and the form was filed on August 29, 2003.

Mr. Roesler was present via telephone and stated he did not campaign because he was running unopposed and he did not realize that we was required to complete the C1 form until he received the letter from the PDC.

There was no motion to reconsider this matter.

*William Schmitt, Case #03-425*

Mr. Stutzman reported that a brief enforcement hearing was held June 12, 2003, in which Mr. Schmitt was found in violation of RCW 42.17.240 for failure to timely file a Statement of Financial Affairs. Mr. Schmitt was assessed a penalty of \$100 and the form was filed on May 28, 2003.

Mr. Schmitt provided a letter stating that he experienced postal problems and had been out of town.

There was no motion to reconsider this matter.

*Cheryl Turner, Case #04-266*

Mr. Stutzman reported that a brief enforcement hearing was held October 15, 2003, in which Ms. Turner was found in violation of RCW 42.17.240 for failure to timely file a Statement of Financial Affairs. Ms. Turner was assessed a penalty of \$150.

Ms. Turner provided a letter stating that she decided to withdraw her candidacy and she sent a statement to the local newspaper that was published on October 13, 2003, prior to the election.

**Motion 04-062**

Moved by Commissioner Tilly, seconded by Commissioner Martin:

**The Commission vacates the order in PDC Case #04-266, Cheryl Turner.**

The motion passed unanimously.

Adjournment

Commissioner Brady adjourned the meeting at 3:20 p.m. The next meeting is scheduled for Tuesday, January 27, 2004.

Approved by the Commission 2/24/04